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4 BILL NO. S-73-07-31<sup>08</sup>

5 SPECIAL ORDINANCE NO. S- 91-73

6 AN ORDINANCE approving Agreement with  
7 KEN NIEMEYER, INC. for construction  
8 of the LAKE FOREST ADDITION EXTENDED  
sewer.

9 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF  
10 FORT WAYNE, INDIANA:

11 SECTION 1. The Sewer Agreement dated July 16, 1973,  
12 between KEN NIEMEYER, INC. as Developer, and the CITY OF FORT  
13 WAYNE, by and through its Mayor and Board of Public Works, for  
14 the construction of a sanitary sewer in the Lake Forest Addition  
15 Extended, Section V, as follows:

16 LATERAL A-1

17 Commencing from a proposed manhole over an exist-  
18 ing 30" sanitary sewer located 40 + Lineal Feet  
South of the Southeast corner of Lot #9 of said  
addition; thence Northwest 73 + Lineal Feet to  
19 a proposed manhole located 15 + Lineal Feet North  
of the Southwest corner of Lot #9; thence due North  
20 121 + Lineal Feet to a proposed manhole located  
8 + Lineal Feet North of the Northwest corner  
21 of Lot #9. Said manhole more particularly de-  
scribed as being 8 + Lineal Feet North of the  
22 South Right-of-way line of Turkey Run Drive;  
thence due North 540 + Lineal Feet to a proposed  
23 manhole located 17 + Lineal Feet West of and 17 +  
Lineal Feet South of the centerline intersection  
24 of Turkey Run Drive and Skyhawk Drive; thence due  
North 900 + Lineal Feet terminating at a proposed  
25 manhole located 17 + Lineal Feet East of the center-  
line of Skyhawk Drive and 5 + Lineal Feet North  
26 of the Northwest corner of Lot #29 of said addi-  
tion.

27 LATERAL A-1-A

28 Commencing from a proposed manhole located 17 +  
29 Lineal Feet East of and 17 + Lineal Feet South  
of the centerline intersection of Skyhawk Drive  
30 and Turkey Run Drive; thence due South 80 + Lineal  
Feet terminating at a proposed cleanout located  
31 17 + Lineal Feet East of the centerline of Skyhawk  
Drive and 5 + Lineal Feet South of the Northeast  
32 corner of Lot #17 of said addition.

33 LATERAL A-2

34 Commencing from a proposed manhole located 17 +  
35 Lineal Feet East of and 17 + Lineal Feet South of  
the centerline intersection of Turkey Run Drive and  
Cimarron Pass; thence Northerly generally along the  
East right-of-way of Cimarron Pass 1215 + Lineal

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4 Feet terminating at a proposed manhole located  
5 17 + Lineal Feet East of and 105 + Lineal Feet  
6 North of the Northwest corner of Lot #52 of said  
7 addition.

8 LATERAL A-3

9 Commencing from a proposed manhole located 17  
10 + Lineal Feet South of the centerline of Turkey Run  
11 Drive and due North of the Northwest corner of  
12 Lot #9 of said addition; thence Easterly along the  
13 South right-of-way line of Turkey Run Drive 580 +  
14 Lineal Feet, terminating at a proposed manhole  
15 located 5 + Lineal Feet East of the most Westerly  
16 corner of Lot #1 of said addition and 17 + Lineal  
17 Feet South of the centerline of Turkey Run Drive.  
18 Said sewers shall be 15", 12", and 8" in diameter.

19 the entire cost and expense of construction of said sewer to be  
20 borne by Developer, including City engineering and inspection  
21 fees, and to hold the City harmless from any liability for  
22 claims connected therewith, all as more particularly set forth  
23 in said Sewer Agreement, which is on file in the office of the  
24 Board of Public Works, and is by reference incorporated herein  
25 and made a part hereof, is hereby in all things ratified, con-  
26 firmed and approved.

27 SECTION 2. That the Developer, and any owner or  
28 owners of land, their successors in title and assigns, which is  
29 now or may hereafter be located outside the corporate limits of  
30 the City of Fort Wayne, Indiana, who taps into the sewer main  
31 covered in said Agreement, or any extension thereof, shall be  
32 deemed to thereby waive his, her, their or its right to remon-  
33 strate against or otherwise object to, interfere with, or oppose  
34 any pending or future annexation by said City of Fort Wayne,  
35 Indiana, of such land or territory in which said land is located.

SECTION 3. This Ordinance shall be in full force and  
effect from and after its passage and approval by the Mayor.

32   
33 Councilman

34  
35 APPROVED AS TO FORM  
AND LEGALITY.

  
CITY ATTORNEY

Read the first time in full and on motion by Stier, seconded by Talarico, and duly adopted, read the second time by title and referred to the Committee on Public Works (and the City-Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 197\_\_\_\_, at \_\_\_\_\_ o'clock P.M., E.S.T.

Date: 8/14/73

Charles W. Talarico  
CITY CLERK

Read the third time in full and on motion by Stier, seconded by Talarico, and duly adopted, placed on its passage.

Passed (~~lost~~) by the following vote:

AYES 9, NAYS 0, ABSTAINED \_\_\_\_\_, ABSENT \_\_\_\_\_ to-wit:

BURNS	<input checked="" type="checkbox"/>	_____	_____	_____
HINGA	<input checked="" type="checkbox"/>	_____	_____	_____
KRAUS	<input checked="" type="checkbox"/>	_____	_____	_____
MOSES	<input checked="" type="checkbox"/>	_____	_____	_____
NUCKOLS	<input checked="" type="checkbox"/>	_____	_____	_____
SCHMIDT, D.	<input checked="" type="checkbox"/>	_____	_____	_____
SCHMIDT, V.	<input checked="" type="checkbox"/>	_____	_____	_____
STIER	<input checked="" type="checkbox"/>	_____	_____	_____
TALARICO	<input checked="" type="checkbox"/>	_____	_____	_____

DATE: 8-28-73

Charles W. Talarico  
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (Zoning Map) (General) (Annexation) (Special) (Appropriation) Ordinance (Resolution) No. 8-91-73 on the 28th day of August, 1973.

ATTEST: (SEAL)

Charles W. Talarico  
CITY CLERK

Winifred C. Moore Jr  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 29th day of August, 1973, at the hour of 10:00 o'clock A. M., E.S.T.

Charles W. Talarico  
CITY CLERK

Approved and signed by me this 29th day of August, 1973, at the hour of 4:00 o'clock P. M., E.S.T.

John A. Robinson  
MAYOR

Bill No. S-73-08-31

REPORT OF THE COMMITTEE ON PUBLIC WORKS

We, your Committee on Public Works to whom was referred an Ordinance  
approving Agreement with KEN NIEMEYER, INC.  
for construction of the LAKE FOREST ADDITION  
EXTENDED sewer

have had said Ordinance under consideration and beg leave to report back to the Common  
Council that said Ordinance DO. PASS.

James S. Stier - Chairman

Eugene Kraus, Jr - Vice-Chairman

Samuel J. Talarico

William T. Hinga

Vivian G. Schmidt

*James S. Stier*  
*Eugene Kraus, Jr.*  
*Samuel J. Talarico*  
*William T. Hinga*  
*Vivian G. Schmidt*

DATE 8-28-73 CONCURRED IN  
CHARLES W. WESTERMAN, CITY CLERK

1-311-8  
7/16/73

SEWER EXTENSION AGREEMENT FOR  
LAKE FOREST ADDITION EXTENDED

SECTION V

THIS AGREEMENT, executed this 16th day of July, 1973, between Ken Niemeyer, Inc., hereinafter referred to as "Niemeyer", and the "CITY OF FORT WAYNE, INDIANA," an Indiana municipal corporation, hereinafter referred to as the "City", WITNESSETH that:

WHEREAS, Niemeyer desires to improve and develop a tract of land approximately twenty-four (24) acres in size, outlined in red on the map attached hereto and marked Exhibit A, which is herein called the "Tract", and desires to obtain sewer services from the City by connecting said Tract to an extension of the present city sewers which exist in Lake Forest Addition, Section III.

NOW THEREFORE, Niemeyer and the city in consideration of the premises do hereby agree as follows: The Tract to be served is situated in Allen County, Indiana and described as follows, to-wit:

Part of Out Lots 1 and 2 in J. Browning's Subdivision of Kercherval Reserve, in Allen County, Indiana, more particularly described as follows, to-wit:

Commencing at the Northwest corner of Lake Forest Extended Addition Section III, being a point on the West line of said Out Lot 2. Thence North 0 degrees 16 minutes West along said West line a distance of 1038.9 feet to a point; thence North 89° 42' 20" East 336.36 feet; thence South 00° 19' 40" East 460 feet; thence South 75° 37' 20" East 350.45 feet; thence North 00° 19' 40" West 375 feet; thence North 89° 42' 20" East 355 feet; thence South 00° 19' 40" East 558.75 feet; thence South 89° 47' East 986.61 feet to the West right-of-way of Maysville Road; thence South 32° 22' 40" West on said West right-of-way of Maysville Road 59.06 feet; thence North 89° 47' West 513.6 feet to a point (being on the East bank of the Walke Ditch); thence South 39° 01' West 298.8 feet to a point (on said East ditch bank); thence South 45° 57' West 299.2 feet to a point (on said East ditch bank); thence North 89° 39' West 1047.91 feet along the North line of Lake Forest Extended Addition, Section III, to the point-of-beginning, containing 24.64 acres more or less.

FURTHERMORE, Niemeyer agrees to pay the City an acre charge at a rate of \$500 per acre for each acre in the described real estate Tract, which generates the amount of \$12,000, the receipt thereof is hereby acknowledged.

DESCRIPTION OF SANITARY SEWERS TO SERVE SAID TRACT ARE:

Lateral A-1

Commencing from a proposed manhole over an existing 30" sanitary sewer located 40  $\pm$  Lineal Feet South of the Southeast corner of Lot #9 of said addition; thence Northwest 73  $\pm$  Lineal Feet to a proposed manhole located 15  $\pm$  Lineal Feet North of the Southwest corner of Lot #9; thence due North 121  $\pm$  Lineal Feet to a proposed manhole located 8  $\pm$  Lineal Feet North of the Northwest corner of Lot #9. Said manhole more particularly described as being 8  $\pm$  Lineal Feet North of the South right-of-way line of Turkey Run Drive; thence due North 540  $\pm$  Lineal Feet to a proposed manhole located 17  $\pm$  Lineal Feet West of and 17  $\pm$  Lineal Feet South of the centerline intersection of Turkey Run Drive and Skyhawk Drive; thence due North 900  $\pm$  Lineal Feet terminating at a proposed manhole located 17  $\pm$  Lineal Feet East of the centerline of Skyhawk Drive and 5  $\pm$  Lineal Feet North of the Northwest corner of Lot #29 of said addition.

Lateral A-1-A

Commencing from a proposed manhole located 17  $\pm$  Lineal Feet East of and 17  $\pm$  Lineal Feet South of the centerline intersection of Skyhawk Drive and Turkey Run Drive; thence due South 80  $\pm$  Lineal Feet terminating at a proposed cleanout located 17  $\pm$  Lineal Feet East of the centerline of Skyhawk Drive and 5  $\pm$  Lineal Feet South of the Northeast corner of Lot #17 of said addition.

Lateral A-2

Commencing from a proposed manhole located 17  $\pm$  Lineal Feet East of and 17  $\pm$  Lineal Feet South of the centerline intersection of Turkey Run Drive and Cimarron Pass; thence Northerly generally along the East right-of-way of Cimarron Pass 1215  $\pm$

Lineal Feet terminating at a proposed manhole located  $17 \pm$  Lineal Feet East of and  $105 \pm$  Lineal Feet North of the Northwest corner of Lot #52 of said addition.

Lateral A-3

Commencing from a proposed manhole located  $17 \pm$  Lineal Feet South of the centerline of Turkey Run Drive and due North of the Northwest corner of Lot #9 of said addition; thence Easterly along the South right-of-way line of Turkey Run Drive  $580 \pm$  Lineal Feet, terminating at a proposed manhole located  $5 \pm$  Lineal Feet East of the most Westerly corner of Lot #1 of said addition and  $17 \pm$  Lineal Feet South of the centerline of Turkey Run Drive.

Said sewers shall be 15", 12", and 8" in diameter.

COST OF CONSTRUCTION:

The developer agrees to pay the entire cost and expense of construction of sanitary sewer and hold the City harmless from any liability for claims connected therewith. Upon satisfactory completion of afore-described Sewer System, the City will accept for maintenance as part of the City Sanitary Sewer System.

BOND:

This contract is subject to Developer furnishing a satisfactory Guaranty Bond for the value of the sewer which shall guarantee said sewer against defects for a period of one (1) year from the date of final acceptance of said sewer by the City.

LIMITATION ON USE:

Said sewer shall be constructed for disposal of sanitary sewage only and neither the parties hereto, their successors, or assigns, or any future owner of any land serviced by said sewer, shall at any time discharge or permit to be discharged or to flow into said sanitary sewer, any water runoff caused by natural precipitation or anything other than sanitary sewage or contaminated waste.

WAIVER OF RIGHT TO REMONSTRATE AGAINST ANNEXATION:

The "Developer", for himself, his successors in title and assigns, waives and releases any and all rights which it may now or hereafter have to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by City of any territory now or hereafter owned by him.

In further consideration and to induce City to execute and ratify this contract, said Developer for himself, his successors and assigns, agrees by this contract to vest in City the permanent right at its discretion to annex to the City of Fort Wayne at any future time by duly authorized ordinance the said real estate.

Developer further agrees that any deeds, contracts, or other instruments of conveyance made by the Developer, its successors or assigns, transferring or conveying any interest or title in and to any of the real estate, shall contain the waiver and release provisions contained in this article, which provisions shall run with the land and the acceptance of the delivery of any such instrument from the Developer, his successors and assigns by any grantee, vendee, or contract purchaser, shall be made subject to the terms of this Agreement and shall constitute an acceptance of the foregoing provisions by said grantee, vendee, or contract purchaser and their successors in title.

The Developer further agrees to record an executed copy of this contract in the Allen County Recorder's Office within ten (10) days of its adoption and approval by the Common Council of City as hereinafter provided.

Any owner or owners of land which is now, or hereafter located outside the corporate limits of City who connect into the sewer constructed hereunder shall be deemed to thereby waive his, her, their or its right to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by City of such land or of the territory in which it is located or of the area served by said sewer.

GOVERNING STATUTE:

It is the intention of the parties hereto to utilize and take advantage of and apply to this Agreement the provisions of Sections 16, 17 and 18 of Chapter 128 of the Acts of 1967 of the State of Indiana (Burns Indiana Statutes Anno., 1969 Supple., Sections 48-3963, 3964 and 3965), the provisions



of which Sections shall govern with respect to any matters not specifically outlined herein.

COUNCILMATIC APPROVAL:

It is understood and agreed that this Contract is in all respects subject to approval by the Common Council of City, by duly adopted Ordinance, and if such Ordinance is not adopted within a period of Ninety (90) days after execution thereof, this Contract shall be null and void and of no further force and effect.

IN WITNESS WHEREOF, the parties have subscribed to this Agreement the day and year first above written.

DEVELOPER:

Ken Niemeyer  
KEN NIEMEYER, INC.

CITY OF FORT WAYNE, IND.

BY Edvan A. Lebamoff  
(EDVAN A. LEBAMOFF) Mayor

BOARD OF PUBLIC WORKS

BY Ronald A. Bonar

BY Ronald A. Bonar

BY \_\_\_\_\_

ATTEST:

Edna L. Smith  
Clerk

Approved as to form and legality

Associate City Attorney  
Associate City Attorney

STATE OF INDIANA)

) SS:

COUNTY OF ALLEN )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Ken Niemeyer, who acknowledged the execution of the foregoing agreement for sewer extension, as and for his voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal, this 10<sup>th</sup> day of July, 1973.

My Commission Expires:

March 31, 1975

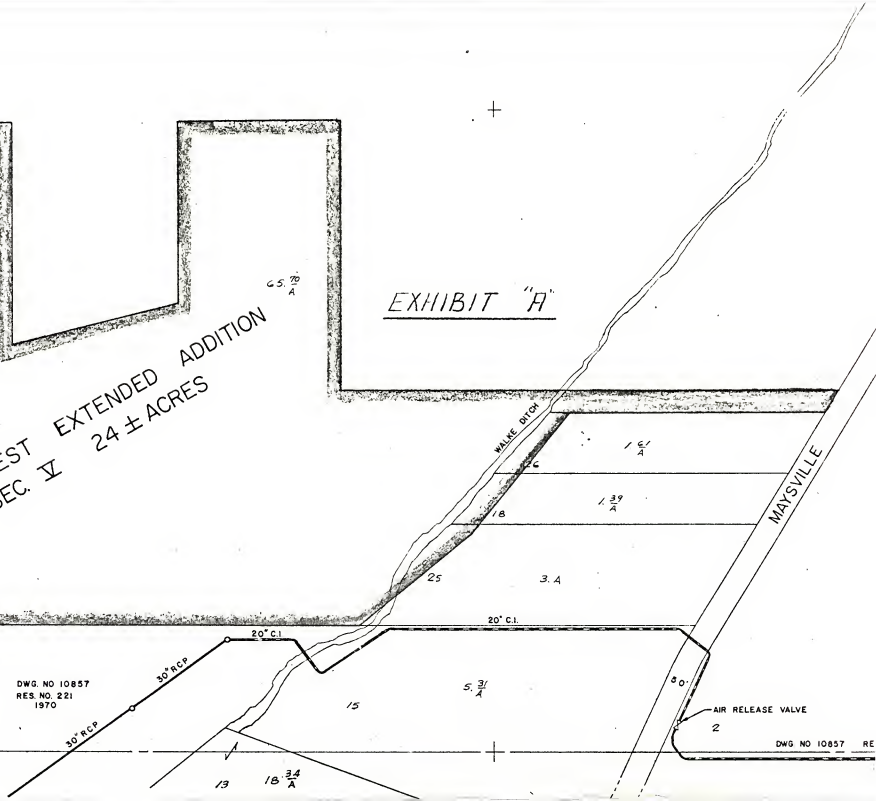
This instrument prepared by the Water Pollution Control Department of the City of Fort Wayne

LAKE FOREST EXTENDED ADDITION  
SEC. V 24 ± ACRES

EXHIBIT "H"

DWG. NO 10857  
RES. NO. 221  
1970

DWG NO 10857 RE



DIGEST SHEET

✓  
S-73-08-31

TITLE OF ORDINANCE Construction of Sanitary Sewer in Lake Forest, Section V.

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

SYNOPSIS OF ORDINANCE Agreement provides for construction of sanitary sewer lines in Lake Forest, Section V. Sewers to be constructed by the developer at his expense with inspection to be made by City. Upon satisfactory construction, the City shall accept the lines for maintenance.

(Copy of agreement attached)

EFFECT OF PASSAGE Construction of sanitary sewers outside City limits with waiver of right to remonstrate against annexation.

EFFECT OF NON-PASSAGE No sewer service in area.

MONEY INVOLVED (Direct Costs, Expenditures, Savings)

No cost to City.

ASSIGNED TO COMMITTEE (J.N.)

Publ- Wnk

Wnk

# ORDINANCE CHECK-OFF SHEET

## INFORMATION REGARDING ORDINANCE

## CONTENTS OF ORDINANCE

BILL NO.	<i>S-73-08-21</i>
ORDINANCE NO.	<i>S-71-73</i>
REGULAR SESSION	<i>Aug 14</i>
SPECIAL SESSION	
APPROVED AS TO FORM AND LEGALITY	<i>Keller</i>
BILL WRITTEN BY	<i>Ed. J. White</i>
DATE INTRODUCED	<i>August 14</i>
REFERRED TO SAID STANDING COMMITTEE	
REFERRED TO CITY PLAN	
LEGAL PUBLIC HEARING	
LEGAL PUBLICATION	
JOINT HEARING	
DEPARTMENT HEARING	
HOLD FILE	
<input checked="" type="checkbox"/> PASS	<i>Aug 28, 73</i>
DO NOT PASS	
WITHDRAWN	
SUSPENSION OF RULES	
PRIOR APPROVAL	
ORDINANCE TAKEN OUT OF OFFICE	
OTHER INSTRUCTIONS REGARDING ORDINANCE	
CORRECTIONS MADE TO ORDINANCE	
PEOPLE SPEAKING FOR ORDINANCE	
PEOPLE SPEAKING AGAINST ORDINANCE	

<input checked="" type="checkbox"/>	COMMITTEE SHEET
<input checked="" type="checkbox"/>	VOTE SHEET
	PURCHASE ORDERS
	BIDS
	ORDERS, BIDS OR OTHER PAPERS TAKEN OUT AND BY WHOM
	LETTER REQUESTING ORDINANCE DRAWN UP BY CITY ATTORNEY
	COMMUNICATIONS FROM
	<i>Letter extension by Lee Fresh</i>
	ZONING MAPS
	<i>map</i>
	ABSTRACTS
	TITLES
	PRIOR APPROVAL LETTER

*Deputy Clerk*

### COUNCILMAN'S VOTE

	AYES	NAYS	ABSENT
BURNS	<i>K</i>		
HINGA	<i>X</i>		
KRAUS	<i>X</i>		
MOSES	<i>X</i>		
NUCKOLS	<i>X</i>		
D. SCHMIDT	<i>X</i>		
V. SCHMIDT	<i>K</i>		
STIER	<i>K</i>		
TALARICO	<i>K</i>		

COMMENTS: